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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,820	10/23/2001	Lars Johnsen	66386-372-7	1479

25269 7590 07/06/2005

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EXAMINER
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ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/936,820

Applicant(s)

JOHNSEN, LARS

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-49 and 52-55 is/are rejected.
- 7) ☒ Claim(s) 50 and 51 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 49 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163) in view of Lecinski (GB 2,122,178). Geiger teaches a lid assembly 1 comprising an outer lid 2 and an inner lid 3. The outer lid consists of a top part between lead lines 17 and 18, a cylindrical collar at 24, threads 5 and 6, and a single inwardly extending protrusion 23b. Geiger does not teach the third layer of the inner lid. Lecinski teaches that it is known to provide an inner lid with a third layer having a lower friction coefficient (see lines 47-52 of page 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the inner lid having a third layer, as taught by Lecinski, in order to protect the metal.

The outer lid of Geiger also includes protrusions 23a, c and d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger without protrusions 23a, c and d, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

3. Claims 49 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163) in view of Hayes (U.S. 5,839,592). Geiger teaches a lid assembly 1 comprising an outer lid 2 and an inner lid 3. The outer lid consists of a top part between lead lines 17 and 18, a cylindrical collar at 24, threads 5 and 6, and a single inwardly extending protrusion 23b. Geiger does not teach the third layer

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of the inner lid. Hayes teaches that it is known to provide an inner lid with a third layer having a lower friction coefficient (see col. 4 lines 9-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the inner lid having a third layer, as taught by Hayes, in order to protect the metal.

The outer lid of Geiger also includes protrusions 23a, c and d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger without protrusions 23a, c and d, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

4. Claims 41-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger in view of Hayes, as applied to claim 55 above, and further in view of Osip et al. (U.S. 4,991,731). The modified lid assembly of Geiger discloses the claimed invention except for the metal being aluminum. Osip teaches that it is known to provide an inner lid with aluminum (see col. 4 lines 53-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the metal being aluminum, as taught by Osip, to give the inner lid the rigidity characteristic of aluminum.

Regarding claims 42 and 43, it also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the first layer being low density polyethylene, as taught by Hayes (col. 4 lines 21-30), to allow the first layer to conform to any irregularities of the container opening.

Regarding claims 44-48, it also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid assembly of Geiger with the third layer being polyethylene, as taught by Hayes (col. 4 lines 9-20), to protect and provide additional strength to the inner lid.

*Allowable Subject Matter*

5. Claims 50 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

7. In view of the new grounds of rejection, THIS ACTION IS MADE NON-FINAL.

8. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloschway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

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direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Niki M. Eloschway/nme  
Patent Examiner  
June 30, 2005